

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

August 12, 2002

IN RE:

**APPROVAL OF THE AMENDMENT TO THE
INTERCONNECTION AGREEMENT
NEGOTIATED BY ELLSOUTH
TELECOMMUNICATIONS, INC. AND E.SPIRE
COMMUNICATIONS, INC. PURSUANT TO
THE TELECOMMUNICATIONS ACT OF 1996**

DOCKET NO. 02-00511

**ORDER APPROVING
AMENDMENT TO THE INTERCONNECTION AGREEMENT**

This matter came before Chairman Sara Kyle, Director Deborah Taylor Tate, and Director Ron Jones, of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on July 23, 2002 to consider, pursuant to 47 U.S.C. § 252, the *Petition for Approval of the Amendment to the Interconnection Agreement Negotiated Between BellSouth Telecommunications, Inc. and e.spire Communications, Inc. Pursuant to the Telecommunications Act of 1996* (the "Amendment").

The original Interconnection Agreement between the parties was filed on August 21, 2000, and assigned Docket No. 00-00741. The Authority approved the Agreement at the November 7, 2000 Authority Conference. The First Amendment to the Agreement was filed on July 19, 2001, under Docket No. 01-00635, and was approved at an Authority Conference on September 25, 2001. The Second Amendment, which is the subject of this docket, was filed on May 6, 2002.

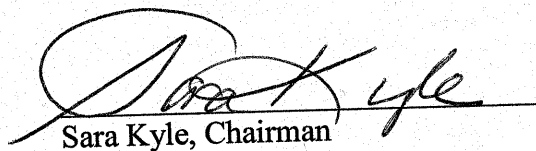
Based upon the Petition, the record in this matter, and the standards for review set forth in 47 U.S.C. § 252, the Directors unanimously approved the Amendment and made the following findings and conclusions:

- 1) The Authority has jurisdiction over public utilities pursuant to Tenn. Code Ann. § 65-4-104.
- 2) The Amendment is in the public interest as it provides consumers with alternative sources of telecommunications services within the BellSouth Telecommunications, Inc. service area.
- 3) The Amendment is not discriminatory to telecommunications service providers that are not parties thereto.
- 4) 47 U.S.C. § 252(e)(2)(A) provides that a state commission may reject a negotiated agreement only if it “discriminates against a telecommunications carrier not a party to the agreement” or if the implementation of the agreement “is not consistent with the public interest, convenience or necessity.” Unlike arbitrated agreements, a state commission may not reject a negotiated agreement on the grounds that the agreement fails to meet the requirements of 47 U.S.C. §§ 251 or 252(d).¹ Thus, although the Authority finds that neither ground for rejection of a negotiated agreement exists, this finding should not be construed to mean that the Amendment is consistent with §§ 251 or 252(d) or, for that matter, previous Authority decisions.
- 5) No person or entity has sought to intervene in this docket.
- 6) The Amendment is reviewable by the Authority pursuant to 47 U.S.C. § 252 and Tenn. Code Ann. § 65-4-104.

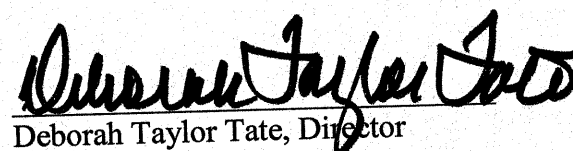
¹ See 47 U.S.C. § 252(e)(2)(B)(Supp. 2001).

IT IS THEREFORE ORDERED THAT:

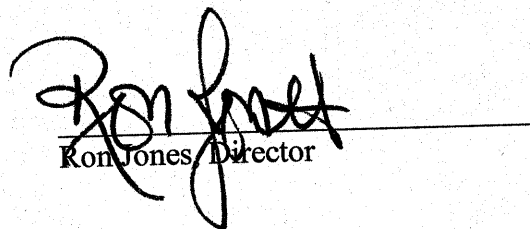
The Amendment to the Interconnection Agreement negotiated between BellSouth Telecommunications, Inc. and e.spire Communications, Inc. is approved and is subject to the review of the Authority as provided herein.



Sara Kyle, Chairman



Deborah Taylor Tate, Director



Ron Jones, Director